

## **Title 63C. State Commissions and Councils Code**

### **Chapter 1 General Provisions**

#### **63C-1-101 Title.**

This title is known as the "State Commissions and Councils Code."

Enacted by Chapter 154, 1994 General Session

#### **63C-1-102 Definitions.**

As used in this title:

- (1) "Advisory board," "advisory commission," and "advisory council" means a board, commission, or council that:
  - (a) provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public;
  - (b) is created by and whose duties are provided by statute or by executive order; and
  - (c) performs its duties only under the supervision of another person as provided by statute.
- (2) "Review board," "review commission," or "review council" means a board, commission, or council that:
  - (a) possesses a portion of the sovereign power of the state only to the extent to enable it to approve policy made for the benefit of the general public by another body or person;
  - (b) is created by and whose duties are provided by statute;
  - (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute; and
  - (d) is permanent and continuous and not temporary and occasional.
- (3) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:
  - (a) possesses a portion of the sovereign power of the state to enable it to make policy for the benefit of the general public;
  - (b) is created by and whose duties are provided by the constitution or by statute;
  - (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute; and
  - (d) is permanent and continuous and not temporary and occasional.

Enacted by Chapter 223, 1994 General Session

### **Chapter 4a Constitutional and Federalism Defense Act**

#### **Part 1 General Provisions**

#### **63C-4a-101 Title.**

- (1) This chapter is known as the "Constitutional and Federalism Defense Act."
- (2) This part is known as "General Provisions."

Enacted by Chapter 101, 2013 General Session

**63C-4a-102 Definitions.**

As used in this chapter:

- (1) "Account" means the Constitutional Defense Restricted Account, created in Section 63C-4a-402.
- (2) "Commission" means the Commission on Federalism, created in Section 63C-4a-302.
- (3) "Constitutional defense plan" means a plan that outlines actions and expenditures to fulfill the duties of the commission and the council.
- (4) "Council" means the Constitutional Defense Council, created in Section 63C-4a-202.
- (5) "Federal governmental entity" means:
  - (a) the president of the United States;
  - (b) the United States Congress;
  - (c) a United States agency; or
  - (d) an employee or official appointed by the president of the United States.
- (6) "Federal law" means:
  - (a) an executive order by the president of the United States;
  - (b) a statute passed by the United States Congress;
  - (c) a regulation adopted by a United States agency; or
  - (d) a policy statement, order, guidance, or action by:
    - (i) a United States agency; or
    - (ii) an employee or official appointed by the president of the United States.
- (7) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.
- (8) "R.S. 2477 plan" means a guiding document that:
  - (a) is developed jointly by the Utah Association of Counties and the state;
  - (b) is approved by the council; and
  - (c) presents the broad framework of a proposed working relationship between the state and participating counties collectively for the purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.
- (9) "United States agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

Enacted by Chapter 101, 2013 General Session

**63C-4a-103 Policy for public lands within the state.**

It is the policy of the state to claim and preserve by lawful means the rights of the state and its citizens to determine and affect the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law.

Renumbered and Amended by Chapter 101, 2013 General Session

**Part 2**  
**Constitutional Defense Council**

**63C-4a-201 Title.**

This part is known as "Constitutional Defense Council."

Enacted by Chapter 101, 2013 General Session

**63C-4a-202 Creation of Constitutional Defense Council -- Membership -- Vacancies -- Meetings -- Staff -- Reports -- Per diem, travel expenses, and funding.**

(1) There is created the Constitutional Defense Council.

(2)

(a) The council shall consist of the following members:

- (i) the governor or the lieutenant governor, who shall serve as chair of the council;
- (ii) the president of the Senate or the president of the Senate's designee who shall serve as vice chair of the council;
- (iii) the speaker of the House or the speaker of the House's designee who shall serve as vice chair of the council;
- (iv) another member of the House, appointed by the speaker of the House;
- (v) the minority leader of the Senate or the minority leader of the Senate's designee;
- (vi) the minority leader of the House or the minority leader of the House's designee;
- (vii) the attorney general or the attorney general's designee, who shall be one of the attorney general's appointees, not a current career service employee;
- (viii) the director of the School and Institutional Trust Lands Administration;
- (ix) four elected county commissioners, county council members, or county executives from different counties who are selected by the Utah Association of Counties, at least one of whom shall be from a county of the first or second class;
- (x) the executive director of the Department of Natural Resources, who may not vote;
- (xi) the commissioner of the Department of Agriculture and Food, who may not vote;
- (xii) the director of the Governor's Office of Economic Development, who may not vote; and
- (xiii) two elected county commissioners, county council members, or county executives from different counties appointed by the Utah Association of Counties, who may not vote.

(b) The council vice chairs shall conduct a council meeting in the absence of the chair.

(c) If both the governor and the lieutenant governor are absent from a meeting of the council, the governor may designate a person to attend the meeting solely for the purpose of casting a vote on any matter on the governor's behalf.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(4)

(a)

(i) Except as provided in Subsection (4)(a)(ii), the council shall meet at least monthly or more frequently as needed.

(ii) The council need not meet monthly if the chair, after polling the members, determines that a majority of the members do not wish to meet.

(b) The governor or any six members of the council may call a meeting of the council.

(c) Before calling a meeting, the governor or council members shall solicit items for the agenda from other members of the council.

(d)

- (i) The council shall require that any entity, other than the commission, that receives money from the Constitutional Defense Restricted Account provide financial reports and litigation reports to the council.
  - (ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from complying with Title 63G, Chapter 2, Government Records Access and Management Act.
  - (e) A majority of the voting membership on the council is required for a quorum to conduct council business. A majority vote of the quorum is required for any action taken by the council.
- (5)
- (a) The Office of the Attorney General shall advise the council.
  - (b) The Public Lands Policy Coordinating Office shall provide staff assistance for meetings of the council.
- (6)
- (a) A member of the council who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
  - (b) Compensation and expenses of a member of the council who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) Money appropriated for or received by the council may be expended by the governor in consultation with the council.

Amended by Chapter 387, 2014 General Session

**63C-4a-203 Duties of Constitutional Defense Council.**

- (1) The Constitutional Defense Council shall assist the governor and the Legislature on the following types of issues:
- (a) the constitutionality of federal mandates;
  - (b) when making recommendations to challenge the federal mandates and regulations described in Subsections (1)(f)(i) through (v), the rationale for and effectiveness of those federal mandates or regulations;
  - (c) legal and policy issues surrounding state and local government rights under R.S. 2477;
  - (d) legal issues relating to the rights of the School and Institutional Trust Lands Administration and its beneficiaries;
  - (e) a disagreement with another state regarding the use or ownership of water; and
  - (f) the advisability, feasibility, estimated cost, and likelihood of success of challenging:
    - (i) federal court rulings that:
      - (A) hinder the management of the state's prison system and place undue financial hardship on the state's taxpayers;
      - (B) impact a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; or
      - (C) expand or grant a power to the United States government beyond the limited, enumerated powers granted by the United States Constitution;
    - (ii) federal laws or regulations that reduce or negate water rights or the rights of owners of private property, or the rights and interest of state and local governments, including

- sovereignty interests and the power to provide for the health, safety, and welfare, and promote the prosperity of their inhabitants;
  - (iii) conflicting federal regulations or policies in land management on federal land;
  - (iv) federal intervention that would damage the state's mining, timber, or ranching industries;
  - (v) the authority of the Environmental Protection Agency and Congress to mandate local air quality standards and penalties; and
  - (vi) other issues that are relevant to this Subsection (1).
- (2) The council shall:
- (a) provide advice to the governor, state planning coordinator, and the public lands policy coordinator concerning coordination of:
    - (i) state and local government rights under R.S. 2477; and
    - (ii) other public lands issues;
  - (b) approve a plan for R.S. 2477 rights developed in accordance with Section 63C-4a-403;
  - (c) review, at least quarterly:
    - (i) financial statements concerning implementation of the plan for R.S. 2477 rights; and
    - (ii) financial and other reports from the Public Lands Policy Coordinating Office concerning its activities; and
  - (d) study, formulate, and recommend appropriate legal strategies and arguments to further the policy described in Section 63C-4a-103.
- (3) The council chair may require the attorney general or a designee to provide testimony on potential legal actions that would enhance the state's sovereignty or authority on issues affecting Utah and the well-being of its citizens.
- (4) The council chair may direct the attorney general to initiate and prosecute any action that the council determines will further its purposes, including an action described in Section 67-5-29.
- (5)
- (a) Subject to the provisions of this section, the council may select and employ attorneys to implement the purposes and duties of the council.
  - (b) The council chair may, in consultation with the council, direct any council attorney in any manner considered appropriate by the attorney general to best serve the purposes of the council.
  - (c) The attorney general shall negotiate a contract for services with any attorney selected and approved for employment under this section.
- (6) The council chair may, only with the concurrence of the council, review and approve all claims for payments for:
- (a) legal services that are submitted to the council;
  - (b) an action filed in accordance with Section 67-5-29; and
  - (c) costs related to a constitutional defense plan approved in accordance with Section 63C-4a-403 that are submitted by:
    - (i) the Public Lands Policy Coordinating Office;
    - (ii) the School and Institutional Trust Lands Administration; or
    - (iii) the Office of the Attorney General.
- (7)
- (a) The council chair may, with the concurrence of the council, order the attorney general or an attorney employed by the council to cease work that may be charged to the fund.
  - (b) The attorney general or other attorney subject to the order shall comply with the order no later than five business days after the day on which the order is given.
- (8)

- (a) At least 20 calendar days before the state submits comments on the draft environmental impact statement or environmental assessment for a proposed land management plan of any federal land management agency, the governor shall make those documents available to:
  - (i) members of the council; and
  - (ii) any county executive, county council member, or county commissioner of a county that is covered by the management plan and that has established formal cooperating agency status with the relevant federal land management agency regarding the proposed plan.
- (b)
  - (i) A council member or local government official who receives the documents described in Subsection (8)(a) may make recommendations to the governor or the governor's designee concerning changes to the documents before the documents are submitted to the federal land management agency.
  - (ii) A council member or local government official shall submit recommendations to the governor or the governor's designee no later than 10 calendar days after the day on which the council member or local government official receives the documents described in Subsection (8)(a).
- (c) Documents transmitted or received under this Subsection (8) are drafts and are protected records under Subsection 63G-2-305(22).
- (9) The council shall submit a report on December 1 of each year to each legislator by electronic mail that summarizes the council's activities.

Renumbered and Amended by Chapter 101, 2013 General Session  
Amended by Chapter 445, 2013 General Session

### **Part 3**

### **Commission on Federalism**

#### **63C-4a-301 Title.**

This part is known as "Commission on Federalism."

Enacted by Chapter 101, 2013 General Session

#### **63C-4a-302 Creation of Commission on Federalism -- Membership meetings -- Staff -- Expenses.**

- (1) There is created the Commission on Federalism, comprised of the following seven members:
  - (a) the president of the Senate or the president of the Senate's designee who shall serve as cochair of the commission;
  - (b) another member of the Senate, appointed by the president of the Senate;
  - (c) the speaker of the House or the speaker of the House's designee who shall serve as cochair of the commission;
  - (d) two other members of the House, appointed by the speaker of the House;
  - (e) the minority leader of the Senate or the minority leader of the Senate's designee; and
  - (f) the minority leader of the House or the minority leader of the House's designee.
- (2)
  - (a) A majority of the members of the commission constitute a quorum of the commission.
  - (b) Action by a majority of the members of a quorum constitutes action by the commission.

- (3) The commission shall meet six times each year, unless additional meetings are approved by the Legislative Management Committee.
- (4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.
- (5) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (6) Nothing in this section prohibits the commission from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 387, 2014 General Session

**63C-4a-303 Duties of Commission on Federalism.**

- (1) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:
  - (a) as agreed by a majority of the commission; or
  - (b) submitted to the commission by a council member.
- (2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.
- (3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair may:
  - (a) request from a United States senator or representative elected from the state:
    - (i) information about the federal law; or
    - (ii) assistance in communicating with a federal governmental entity regarding the federal law;
  - (b)
    - (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and
    - (ii) request a response by a specific date to the evaluation from the federal governmental entity; and
  - (c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.
- (4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.
- (5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.
- (6) On May 20 and October 20 of each year, the commission shall submit a report by electronic mail to the Legislative Management Committee and the Government Operations Interim Committee that summarizes:
  - (a) action taken by the commission in accordance with this section; and
  - (b) action taken by, or communication received from, any of the following in response to a request or inquiry made, or other action taken, by the commission:
    - (i) a United States senator or representative elected from the state;
    - (ii) a representative of another state; or
    - (iii) a federal entity, official, or employee.
- (7) The commission shall keep a current list on the Legislature's website of:
  - (a) a federal law that the commission evaluates under Subsection (1);

- (b) an action taken by a cochair of the commission under Subsection (3);
  - (c) any coordination undertaken with another state under Section 63C-4a-305; and
  - (d) any response received from a federal government entity that was requested under Subsection (3).
- (8) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:
- (a) fundamental principles of federalism;
  - (b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;
  - (c) the history and practical implementation of the Tenth Amendment to the United States Constitution;
  - (d) the authority and limits on the authority of the federal government as found in the United States Constitution;
  - (e) the relationship between the state and federal governments;
  - (f) methods of evaluating a federal law in the context of the principles of federalism;
  - (g) how and when challenges should be made to a federal law or regulation on the basis of federalism;
  - (h) the separate and independent powers of the state that serve as a check on the federal government;
  - (i) first amendment rights and freedoms contained therein; and
  - (j) any other issues relating to federalism the commission considers necessary.
- (9) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

Amended by Chapter 221, 2014 General Session

**63C-4a-304 Standard for evaluation of federal law.**

- (1) The commission shall evaluate whether a federal law evaluated under Section 63C-4a-303 is authorized by:
- (a) United States Constitution, Article I, Section 2, to provide for the decennial census;
  - (b) United States Constitution, Article I, Section 4, to override state laws regulating the times, places, and manner of congressional elections, other than the place of senatorial elections;
  - (c) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions by Congress;
  - (d) United States Constitution, Article I, Section 8, to:
    - (i) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts, and excises shall be uniform throughout the United States;
    - (ii) borrow money on the credit of the United States;
    - (iii) regulate commerce with foreign nations, among the several states, and with the Indian tribes;
    - (iv) establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States;
    - (v) coin money, regulate the value of coin money and of foreign coin, and fix the standard of weights and measures;
    - (vi) provide for the punishment of counterfeiting the securities and current coin of the United States;
    - (vii) establish post offices and post roads;



- (viii) promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
- (ix) constitute tribunals inferior to the supreme court;
- (x) define and punish piracies and felonies committed on the high seas and offences against the law of nations;
- (xi) declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
- (xii) raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
- (xiii) provide and maintain a navy;
- (xiv) make rules for the government and regulation of the land and naval forces;
- (xv) provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;
- (xvi) provide for organizing, arming, and disciplining the militia, and for governing the part of the militia that may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress;
- (xvii) exercise exclusive legislation in all cases whatsoever, over such district, which may not exceed 10 miles square, as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; or
- (xviii) make all laws which shall be necessary and proper for carrying into execution the powers listed in this section, and all other powers vested by the United States Constitution in the government of the United States, or in any department or officer of the United States;
- (e) United States Constitution, Article I, Section 9, to authorize a federal officer to receive benefits from a foreign nation;
- (f) United States Constitution, Article I, Section 10, to fix the pay of members of Congress and of federal officers;
- (g) United States Constitution, Article II, Section 1, to:
  - (i) set the time for choosing electors; or
  - (ii) establish who succeeded to the presidency after the vice president;
- (h) United States Constitution, Article II, Section 2, to:
  - (i) serve as Commander-in-Chief of the armed forces;
  - (ii) require the written opinions of executive officers;
  - (iii) grant reprieves and pardons;
  - (iv) make vacancy appointments;
  - (v) make treaties, subject to the advice and consent of the United States Senate;
  - (vi) appoint foreign affairs officers subject to the advice and consent of the United States Senate;
  - (vii) appoint domestic affairs officers subject either to the advice and consent of the United States Senate or pursuant to law;
  - (viii) appoint judges subject to the advice and consent of the United States Senate; or
  - (ix) authorize the president to fill designated inferior offices without senatorial consent;
- (i) United States Constitution, Article II, Section 3, to:
  - (i) receive representatives of foreign powers;
  - (ii) execute the laws;

- (iii) commission United States officers;
- (iv) give Congress information;
- (v) make recommendations to Congress;
- (vi) convene Congress on extraordinary occasions; or
- (vii) adjourn Congress if it cannot agree on a time;
- (j) United States Constitution, Article III, Section 1, to:
  - (i) create exceptions to the supreme court's appellate jurisdiction;
  - (ii) fix the jurisdiction of federal courts inferior to the supreme court; or
  - (iii) declare the punishment for treason;
- (k) United States Constitution, Article IV, Section 1, to establish the rules by which the records and judgments of states are proved in other states;
- (l) United States Constitution, Article IV, Section 3, to:
  - (i) manage federal property;
  - (ii) dispose of federal property;
  - (iii) govern the federal territories; or
  - (iv) consent to admission of new states or the combination of existing states;
- (m) United States Constitution, Article IV, Section 4, to defend states from invasion, insurrection, and non-republican forms of government;
- (n) United States Constitution, Article V, Section 1, to propose constitutional amendments;
- (o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal officers;
- (p) United States Constitution, Amendment XIII, to abolish slavery;
- (q) United States Constitution, Amendment XIV, to guard people from certain state abuses;
- (r) United States Constitution, Amendment XVI, to impose taxes on income from any source without having to apportion the total dollar amount of tax collected from each state according to each state's population in relation to the total national population;
- (s) United States Constitution, Amendment XX, to revise the manner of presidential succession;
- (t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and protect the right to vote; or
- (u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting Congress.
- (2) The commission shall evaluate whether a federal law evaluated under Section 63C-4a-303 violates the principle of federalism by:
  - (a) affecting the distribution of power and responsibility among the state and national government;
  - (b) limiting the policymaking discretion of the state;
  - (c) impacting a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; or
  - (d) impacting the sovereignty rights and interest of the state or a political subdivision to provide for the health, safety, and welfare and promote the prosperity of the state's or political subdivision's inhabitants.
- (3) In the evaluation of a federal law, the commission:
  - (a) shall rely on:
    - (i) the text of the United States Constitution, as amended;
    - (ii) the meaning of the text of the United States Constitution, as amended, at the time of its drafting and ratification; and
    - (iii) a primary source document that is:
      - (A) directly relevant to the drafting, adoption, ratification, or initial implementation of the United States Constitution, as amended; or

- (B) created by a person directly involved in the drafting, adoption, ratification, or initial implementation of the United States Constitution, as amended;
- (b) may rely on other relevant sources, including federal court decisions; and
- (c) is not bound by a holding by a federal court.

Renumbered and Amended by Chapter 101, 2013 General Session

**63C-4a-305 Communication with other states and governmental entities.**

A commission cochair may correspond with the presiding officer of the legislative branch of another state or an entity of another state that has powers and duties that are similar to the commission to discuss and coordinate the evaluation of and response to federal law as provided in Section 63C-4a-303.

Renumbered and Amended by Chapter 101, 2013 General Session

**63C-4a-306 Course on federalism required.**

- (1) This section shall apply to:
  - (a) all political subdivisions of the state;
  - (b) all agencies of the state;
  - (c) the Attorney General's office; and
  - (d) the Office of Legislative Research and General Counsel.
- (2) Beginning January 1, 2015, an employing entity listed in Subsection (1) shall appoint at least one designee to which all questions and inquiries regarding federalism shall be directed. The designee shall be required to attend a seminar on the principles of federalism developed pursuant to Subsection 63C-4a-303(8) at least once in every two-year period.
- (3) The designee may complete the requirements of this section by attending a seminar in person or online.

Enacted by Chapter 221, 2014 General Session

## **Part 4**

### **Miscellaneous Provisions**

**63C-4a-401 Title.**

This part is known as "Miscellaneous Provisions."

Enacted by Chapter 101, 2013 General Session

**63C-4a-402 Creation of Constitutional Defense Restricted Account -- Sources of funds -- Uses of funds -- Reports.**

- (1) There is created a restricted account within the General Fund known as the Constitutional Defense Restricted Account.
- (2) The account consists of money from the following revenue sources:
  - (a) money deposited to the account as required by Section 53C-3-203;
  - (b) voluntary contributions;
  - (c) money received by the council from other state agencies; and

- (d) appropriations made by the Legislature.
- (3) The Legislature may annually appropriate money from the Constitutional Defense Restricted Account to one or more of the following:
  - (a) the commission, to fund the commission and for the commission's duties;
  - (b) the council, to fund the council and for the council's duties;
  - (c) the Public Lands Policy Coordinating Office to carry out its duties in Section 63J-4-603;
  - (d) the Office of the Governor, to be used only for the purpose of asserting, defending, or litigating:
    - (i) an issue arising with another state regarding the use or ownership of water; or
    - (ii) state and local government rights under R.S. 2477, in accordance with a plan developed and approved as provided in Section 63C-4a-403;
  - (e) a county or association of counties to assist counties, consistent with the purposes of the council, in pursuing issues affecting the counties;
  - (f) the Office of the Attorney General, to be used only:
    - (i) for public lands counsel and assistance and litigation to the state or local governments including asserting, defending, or litigating state and local government rights under R.S. 2477 in accordance with a plan developed and approved as provided in Section 63C-4a-403;
    - (ii) for an action filed in accordance with Section 67-5-29;
    - (iii) to advise the council; or
    - (iv) for asserting, defending, or litigating an issue arising with another state regarding the use or ownership of water; or
  - (g) the Office of Legislative Research and General Counsel, to provide staff support to the commission.
- (4)
  - (a) The council shall require that any entity, other than the commission, that receives money from the account provide financial reports and litigation reports to the council.
  - (b) Nothing in this Subsection (4) prohibits the commission or the council from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission or the council from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 101, 2013 General Session

**63C-4a-403 Plans for R.S. 2477 rights and constitutional defense -- Contents.**

- (1) The council may approve an R.S. 2477 plan if the R.S. 2477 plan:
  - (a) provides for a good faith, cooperative effort between the state and each participating county;
  - (b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a resolution;
  - (c) provides that the state and a participating county are equal partners in determining litigation strategy and the expenditure of resources with respect to that county's rights under R.S. 2477; and
  - (d) provides a process for resolving any disagreement between the state and a participating county about litigation strategy or resource expenditure that includes the following requirements:
    - (i) the governor or the governor's designee and a representative of the Utah Association of Counties shall first attempt to resolve the disagreement;

- (ii) if the county and the state continue to disagree, the county, the governor, and the Utah Association of Counties shall present their recommendations to the council for a final decision about the strategy or expenditure in question; and
  - (iii) the county may pursue a strategy or make an expenditure contrary to the final decision of the council only if the county does not claim resources provided to fund the R.S. 2477 plan.
- (2) The council shall ensure that the R.S. 2477 plan contains:
  - (a) provisions identifying which expenditure types require approval of the R.S. 2477 plan committee and which expenditure types may be made without the R.S. 2477 plan committee approval;
  - (b) provisions requiring that financial statements be provided to members of the R.S. 2477 plan committee and members of the council, and the frequency with which those financial statements must be provided; and
  - (c) provisions identifying those decisions or types of decisions that may be made by the R.S. 2477 plan committee and those decisions or types of decisions that must be referred to the council for decision.
- (3)
  - (a) The Public Lands Policy Coordinating Office, in consultation with the committee, the Office of the Attorney General and the School and Institutional Trust Lands, shall prepare and submit a constitutional defense plan to the council for the council's approval.
  - (b) The constitutional defense plan shall contain proposed action and expenditure for:
    - (i) the council's or the commission's duties; or
    - (ii) an action filed in accordance with Section 67-5-29.
- (4) The council shall:
  - (a) review expenditures, at least quarterly, made to further a plan approved under this section;
  - (b) approve an update to a plan under this section at least annually, or more often, if necessary; and
  - (c) jointly, with the Public Lands Policy Coordinating Office, present a R.S. 2477 plan approved under this section, with any updates, to:
    - (i) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee by July 1 of each calendar year, after providing the R.S. 2477 plan to the committee at least seven days before the presentation;
    - (ii) the commission, which may be by mail; and
    - (iii) the president of the Senate and the speaker of the House of Representatives, which may be by mail.

Renumbered and Amended by Chapter 101, 2013 General Session

## **Chapter 6**

### **Utah Seismic Safety Commission**

#### **63C-6-101 Creation of commission -- Membership -- Appointment -- Vacancies.**

- (1) There is created the Utah Seismic Safety Commission consisting of 15 members, designated as follows:
  - (a) the director of the Division of Emergency Management or the director's designee;
  - (b) the director of the Utah Geological Survey or the director's designee;

- (c) the director of the University of Utah Seismograph Stations or the director's designee;
  - (d) the executive director of the Utah League of Cities and Towns or the executive director's designee;
  - (e) a representative from the Structural Engineers Association of Utah biannually selected by its membership;
  - (f) the director of the Division of Facilities Construction and Management or the director's designee;
  - (g) the executive director of the Department of Transportation or the director's designee;
  - (h) the State Planning Coordinator or the coordinator's designee;
  - (i) a representative from the American Institute of Architects, Utah Section;
  - (j) a representative from the American Society of Civil Engineers, Utah Section;
  - (k) a member of the House of Representatives appointed biannually by the speaker of the House;
  - (l) a member of the Senate appointed biannually by the president of the Senate;
  - (m) the commissioner of the Department of Insurance or the commissioner's designee;
  - (n) a representative from the Association of Contingency Planners, Utah Chapter, biannually selected by its membership; and
  - (o) a representative from the American Public Works Association, Utah Chapter, biannually selected by its membership.
- (2) The commission shall annually select one of its members to serve as chair of the commission.
- (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Amended by Chapter 55, 2011 General Session

**63C-6-102 Meetings -- Duties -- Committees.**

- (1) The commission shall meet at the call of the chair, but not less than once each quarter.
- (2) The commission shall:
- (a) review earthquake-related hazards and risks to the state of Utah and its inhabitants;
  - (b) prepare recommendations to identify and mitigate these hazards and risks;
  - (c) prioritize recommendations and present them to state and local government or other appropriate entities for adoption as policy or loss reduction strategies;
  - (d) act as a source of information for individuals and groups concerned with earthquake safety and as a promoter of earthquake loss reduction measures;
  - (e) prepare a strategic seismic planning document to be presented to the State and Local Interim Committee before the 1995 annual general session of the Legislature; and
  - (f) periodically update the planning document and monitor progress toward achieving the goal of loss reduction.
- (3) The commission may:
- (a) divide into or create subcommittees as it determines necessary to carry out its duties under this section; and
  - (b) accept contributions from other private or public sources and seek grants or funding from the federal government for uses relating to seismic safety.

Amended by Chapter 42, 2000 General Session

**63C-6-103 Compensation of members -- Per diem and travel expenses.**

- (1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

**63C-6-104 Staffing and appropriated funds.**

- (1) Staff support to the commission shall be provided by the Division of Emergency Management and the Utah Geological Survey.
- (2) Money not expended by the Utah Seismic Safety Commission during a fiscal year is nonlapsing except that any balance of General Fund money greater than \$10,000 lapses to the General Fund.

Amended by Chapter 55, 2011 General Session

Amended by Chapter 342, 2011 General Session

## **Chapter 9**

### **State Capitol Preservation Board**

#### **Part 1**

#### **General Provisions**

**63C-9-101 Title.**

This chapter is known as the "State Capitol Preservation Board."

Enacted by Chapter 285, 1998 General Session

**63C-9-102 Definitions.**

- (1) "Board" means the State Capitol Preservation Board created by Section 63C-9-201.
- (2) "Capitol hill complex" means the grounds, monuments, parking areas, buildings, including the capitol, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard, and includes:
  - (a) the White Community Memorial Chapel and its grounds and parking areas, and the Council Hall Travel Information Center building and its grounds and parking areas;
  - (b) the Daughters of the Utah Pioneers building and its grounds and parking areas and other state-owned property included within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;
  - (c) the state-owned property included within the area bounded by Columbus Street, Wall Street, and 400 North Street; and
  - (d) the state-owned property included within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.
- (3) "Capitol hill facilities" means all of the buildings on the capitol hill complex, including the capitol, and the exterior steps, entrances, streets, parking areas, and other paved areas of capitol hill.
- (4) "Capitol hill grounds" means the unpaved areas of the capitol hill complex.

- (5) "Executive director" means the executive director appointed by the board under Section 63C-9-401.

Amended by Chapter 256, 2006 General Session

## **Part 2**

### **State Capitol Preservation Board**

#### **63C-9-201 State Capitol Preservation Board -- Creation -- Membership.**

- (1) There is created the State Capitol Preservation Board.
- (2) The board shall consist of the following 11 members:
- (a) the governor, or the lieutenant governor acting as the governor's designee;
  - (b) the president of the Senate or the president's designee, who shall be a member of the Senate;
  - (c) the speaker of the House of Representatives or the speaker's designee, who shall be a member of the House of Representatives;
  - (d) the state treasurer;
  - (e) the state attorney general;
  - (f) two members of the Senate appointed by the president of the Senate, one from the majority party and one from the minority party;
  - (g) two members of the House of Representatives appointed by the speaker of the House of Representatives, one from the majority party and one from the minority party;
  - (h) the chief justice of the Supreme Court or the chief justice's designee, who shall be a member of the Supreme Court; and
  - (i) the state historic preservation officer.

Amended by Chapter 256, 2006 General Session

#### **63C-9-202 Terms -- Vacancies -- Chair -- Vice chair -- Meetings -- Compensation.**

- (1)
- (a) The governor, president of the Senate, speaker of the House, chief justice, state treasurer, state attorney general, and state historic preservation officer shall serve terms coterminous with their office.
  - (b) The other members shall serve two-year terms.
- (2) Vacancies in the appointed positions shall be filled by the original appointing authority for the unexpired term.
- (3)
- (a) Except as provided in Subsection (3)(b), the governor is chair of the board.
  - (b) When the governor is absent from meetings of the board, the vice chair is chair of the board.
  - (c) The governor shall appoint a member of the board to serve as vice chair with the approval of a majority of the members of the board.
- (4) The board shall meet at least quarterly and at other times at the call of the governor or at the request of four members of the board.
- (5)
- (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:



- (i) Section 63A-3-106;
  - (ii) Section 63A-3-107; and
  - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

### **Part 3**

### **Board Powers and Duties**

#### **63C-9-301 Board powers -- Subcommittees.**

- (1) The board shall:
- (a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;
  - (b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;
  - (c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;
  - (d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:
    - (i) the governor, through the Governor's Office of Management and Budget; and
    - (ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of Legislative Fiscal Analyst;
  - (e) review and approve the executive director's:
    - (i) annual work plan;
    - (ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and
    - (iii) furnishings plan for placement and care of objects under the care of the board;
  - (f) approve all changes to the buildings and their grounds, including:
    - (i) restoration, remodeling, and rehabilitation projects;
    - (ii) usual maintenance program; and
    - (iii) any transfers or loans of objects under the board's care;
  - (g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:
    - (i) Division of Facilities Construction and Management;
    - (ii) State Library Division;
    - (iii) Division of Archives and Records Service;
    - (iv) Division of State History;
    - (v) Office of Museum Services; and
    - (vi) Arts Council;
  - (h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:
    - (i) Division of Facilities Construction and Management;
    - (ii) State Library Division;

- (iii) Division of Archives and Records Service;
  - (iv) Division of State History;
  - (v) Office of Museum Services; and
  - (vi) Arts Council;
- (i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;
- (j) comply with federal and state laws related to program and facility accessibility; and
- (k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.
- (2)
- (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and
- (b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.
- (3)
- (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (b) A person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.
- (c) The board may take any other legal action allowed by law.
- (d) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under this Subsection (3) in addition to any criminal prosecution.
- (e) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.
- (f) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.
- (4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.
- (5)
- (a) The board may:
- (i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;
  - (ii) establish fees for the use of capitol hill facilities and capitol hill grounds;
  - (iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;
  - (iv) contract with another state agency to provide services;
  - (v) delegate by specific motion of the board any authority granted to it by this section to the executive director;
  - (vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;
  - (vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

- (viii) when necessary, consult with the:
    - (A) Division of Facilities Construction and Management;
    - (B) State Library Division;
    - (C) Division of Archives and Records Service;
    - (D) Division of State History;
    - (E) Office of Museum Services; and
    - (F) Arts Council.
  - (b) The board's provision of wireless Internet service under Subsection (5)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.
  - (c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:
    - (i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of Legislative Fiscal Analyst; and
    - (ii) the executive director of the Governor's Office of Management and Budget, or the executive director's designee, who shall be from the Governor's Office of Management and Budget.
  - (d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:
    - (i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or
    - (ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.
  - (e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.
  - (f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.
- (6)
- (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:
    - (i) the governor, in the case of the governor's office;
    - (ii) the lieutenant governor, in the case of the lieutenant governor's office;
    - (iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or
    - (iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.
  - (b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.
  - (c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.
  - (d) Except for items identified by the board as having historical significance, and except as provided in Subsection (6)(b), the board and the employees of the board have no control over

moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

Amended by Chapter 310, 2013 General Session

Amended by Chapter 310, 2013 General Session

## **Part 4**

### **Executive Director**

#### **63C-9-401 Executive director.**

The board shall:

- (1) appoint an executive director to assist the board in performing its duties under this chapter;
- (2)
  - (a) require the budget and operations subcommittee to review and make recommendations to the board regarding:
    - (i) the executive director's annual performance; and
    - (ii) the executive director's suggestions for staff, including staff duties, performance, compensation, and personnel;
  - (b) approve, deny, or modify the subcommittee's recommendations, which shall be submitted to the board before the board submits its budget recommendations under Subsections 63C-9-301(1)(c) and (d); and
  - (c) make rules governing the review, compensation, and bonus process for the executive director and staff.

Amended by Chapter 256, 2006 General Session

#### **63C-9-402 Executive director -- Duties.**

The executive director shall:

- (1) develop, for board approval, a master plan with a projection of at least 20 years concerning the stewardship responsibilities, operation, activities, maintenance, preservation, restoration, and modification of the capitol hill complex, capitol hill facilities, and capitol hill grounds, including, if directed by the board, a plan to restore the buildings to their original architecture;
- (2) develop, as part of the master plan submitted for board approval, a furnishings plan for the placement and care of objects under the care of the board;
- (3) prepare, and recommend for board approval, an annual budget and work plan, that is consistent with the master plan, for all work to be performed under this chapter, including usual operations and maintenance and janitorial and preventative maintenance for the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;
- (4) develop an operations, maintenance, and janitorial program for the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;
- (5) develop a program to purchase or accept by donation, permanent loan, or outside funding items necessary to implement the master plan;
- (6) develop and maintain a registration system and inventory of the contents of the capitol hill facilities and capitol hill grounds and of the original documents relating to the buildings' construction and alteration;

- (7) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the capitol hill facilities and that are not owned by the state;
- (8) develop a program to locate and acquire state-owned items of historical significance that were at one time in the buildings;
- (9) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the board;
- (10) assist in matters dealing with the preservation of historic materials;
- (11) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance;
- (12) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy;
- (13) make recommendations to transfer, sell, or otherwise dispose of unused surplus property that is not of significance as defined in the collections policy and by the registration system;
- (14) approve all art and exhibits placed on capitol hill after board approval;
- (15) employ staff to assist him in administering this chapter and direct and coordinate their activities;
- (16) contract for professional services of qualified consultants, including architectural historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, artists, exhibit designers, and craftsmen;
- (17) prepare annually a complete and detailed written report for the board that accounts for all funds received and disbursed by the board during the preceding fiscal year;
- (18) develop and manage a visitor services program for capitol hill which shall include public outreach programs, public tours, events, and communication and public relation services; and
- (19) manage and organize all transit and parking programs on the capitol hill complex, except that:
  - (a) the Legislative Management Committee shall direct the executive director's management and organization of transit and parking associated with the legislative area as defined in Section 36-5-1; and
  - (b) the governor shall direct the executive director's management and organization of transit and parking associated with the governor's area as defined in Section 67-1-16.

Amended by Chapter 314, 2015 General Session

**63C-9-403 Contracting power of executive director -- Health insurance coverage.**

- (1) For purposes of this section:
  - (a) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:
    - (i) works at least 30 hours per calendar week; and
    - (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first of the calendar month following 60 days from the date of hire.
  - (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.
  - (c) "Qualified health insurance coverage" is as defined in Section 26-40-115.
  - (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.
- (2)
  - (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the board or on behalf of the board on or after July 1, 2009, and to a prime contractor or a subcontractor in accordance with Subsection (2)(b).
  - (b)

- (i) A prime contractor is subject to this section if the prime contract is in the amount of \$1,500,000 or greater.
- (ii) A subcontractor is subject to this section if a subcontract is in the amount of \$750,000 or greater.
- (3) This section does not apply if:
  - (a) the application of this section jeopardizes the receipt of federal funds;
  - (b) the contract is a sole source contract; or
  - (c) the contract is an emergency procurement.
- (4)
  - (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).
  - (b) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (2) is guilty of an infraction.
- (5)
  - (a) A contractor subject to Subsection (2) shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract.
  - (b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall demonstrate to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the contract.
  - (c)
    - (i)
      - (A) A contractor who fails to meet the requirements of Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).
      - (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (5)(b).
    - (ii)
      - (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
      - (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (5)(a).
- (6) The department shall adopt administrative rules:
  - (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (b) in coordination with:
    - (i) the Department of Environmental Quality in accordance with Section 19-1-206;
    - (ii) the Department of Natural Resources in accordance with Section 79-2-404;
    - (iii) the State Building Board in accordance with Section 63A-5-205;
    - (iv) a public transit district in accordance with Section 17B-2a-818.5;
    - (v) the Department of Transportation in accordance with Section 72-6-107.5; and
    - (vi) the Legislature's Administrative Rules Review Committee; and
  - (c) which establish:
    - (i) the requirements and procedures a contractor must follow to demonstrate to the executive director compliance with this section which shall include:

- (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or (b) more than twice in any 12-month period; and
  - (B) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency from either:
    - (I) the Utah Insurance Department;
    - (II) an actuary selected by the contractor or the contractor's insurer; or
    - (III) an underwriter who is responsible for developing the employer group's premium rates;
  - (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
    - (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
    - (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
    - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
    - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and
  - (iii) a website on which the department shall post the benchmark for the qualified health insurance coverage identified in Subsection (1)(c).
- (7)
- (a)
    - (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.
    - (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
      - (A) the employer relied in good faith on a written statement of actuarial equivalency provided by:
        - (I) an actuary; or
        - (II) an underwriter who is responsible for developing the employer group's premium rates; or
      - (B) the department determines that compliance with this section is not required under the provisions of Subsection (3) or (4).
  - (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
- (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.
- (9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:
- (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1603 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
  - (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Amended by Chapter 425, 2014 General Session

## **Part 5**

### **Fund Raising and Donations**

#### **63C-9-501 Soliciting donations.**

- (1) The executive director, under the direction of the board, shall:
  - (a) develop plans and programs to solicit gifts, money, and items of value from private persons, foundations, or organizations; and
  - (b) actively solicit donations from those persons and entities.
- (2)
  - (a) Property provided by those entities is the property of the state and is under the control of the board.
  - (b) Subsection (2)(a) does not apply to temporary exhibits or to the personal property of persons having an office in a building on capitol hill.
- (3) The board:
  - (a) shall deposit money donated to the board into the State Capitol Fund established by this part;
  - (b) shall use gifts of money made to the board for the purpose specified by the grantor, if any; and
  - (c) may return to the donor any gift or money donated to the board if a majority of the board determines that use of the gift or money is unfeasible, or will otherwise not be placed or used on capitol hill.

Amended by Chapter 172, 2014 General Session

#### **63C-9-502 Fund created -- Donations.**

- (1) There is created an expendable special revenue fund entitled the "State Capitol Fund."
- (2) The fund consists of money generated from the following revenue sources:
  - (a) any donations, deposits, contributions, gifts, money, and items of value received from private persons, foundations, or organizations;
  - (b) appropriations made to the fund by the Legislature; and
  - (c) money received by the board from the federal government.
- (3)
  - (a) The fund shall earn interest.
  - (b) All interest earned on fund money shall be deposited into the fund.
- (4) The board may use fund money to:
  - (a) acquire historical and other items to furnish the capitol hill facilities;
  - (b) pay for the repair and maintenance of the capitol hill facilities and capitol hill grounds;
  - (c) pay for the rehabilitation of the capitol hill facilities and capitol hill grounds; and
  - (d) fund all costs incurred in complying with this chapter.

Amended by Chapter 314, 2015 General Session

## **Part 6**

### **Custody, Control, and Acquisition of Furnishings**



**63C-9-601 Responsibility for items.**

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, State Library Division, the Division of Archives and Records Service, the Division of State History, the Office of Museum Services, the Utah Arts Council, the Division of Arts and Museums, the Alice Art Collection Committee, or any other state agency.

Amended by Chapter 24, 2006 General Session

**63C-9-602 Transfer of certain historical items.**

- (1)
- (a) A state agency or other state entity that possesses a state-owned item identified by the executive director and the board as an item of historical significance that was at one time located in the capitol hill facilities shall transfer the item to the inventory of the board at the direction of the executive director not later than the 60th day after the date that the executive director notifies the agency or entity.
  - (b) The state agency or other state entity shall subsequently transfer physical possession of the item to the board in accordance with policies and procedures established by the board.
- (2) This section does not apply to records or documents in the custody of the Division of Archives and Records Service.

Enacted by Chapter 285, 1998 General Session

**Chapter 10**  
**Statewide Rural Boards and Committees**

**Part 1**  
**Governor's Rural Partnership Board**

**63C-10-101 Title.**

This chapter is known as "Statewide Rural Boards and Committees."

Enacted by Chapter 73, 2004 General Session

**63C-10-102 Governor's Rural Partnership Board -- Creation -- Membership -- Vacancies -- Chairs -- Expenses.**

- (1) As used in this section:
- (a) "Board" means the Governor's Rural Partnership Board, created in Subsection (2).
  - (b) "Executive committee" means the executive committee of the Governor's Rural Partnership Board, created in Subsection (5).
- (2) There is created the Governor's Rural Partnership Board composed of 17 members as follows:
- (a) the governor or the governor's designee;
  - (b) a rural member of the Utah Association of Counties' Board of Directors, appointed by the association's board;

- (c) a rural member of the Utah League of Cities and Towns' Board of Directors, appointed by the league's board;
  - (d) the vice president of Utah State University's Extension Services or the vice president's designee;
  - (e) the president of Southern Utah University or the president's designee;
  - (f) a rural representative from the Department of Workforce Services, appointed by the Department of Workforce Services;
  - (g) the director of the Division of Indian Affairs or the director's designee;
  - (h) a representative from a rural association of governments;
  - (i) a rural representative of agriculture;
  - (j) a rural representative of the travel industry;
  - (k) a representative of rural utilities;
  - (l) a representative from the oil, gas, or mineral extraction industry; and
  - (m) five rural members appointed by the governor, at least one of which shall be a representative from a rural private business.
- (3)
- (a) Except as required by Subsection (3)(b), board members identified in Subsections (2)(b), (c), (f), (h), (i), (j), (k), (l), and (m) shall be appointed for four-year terms.
  - (b) The governor shall, at the time of appointment or reappointment for members appointed under Subsection (2)(m), adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of these five members are appointed every two years.
  - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the vacated member was chosen.
  - (d) Once initial board appointments are made pursuant to Subsection (2)(m), recommendations for filling vacancies for any reason of those five board positions shall be made to the governor from a nominating committee consisting of:
    - (i) three individuals selected by the executive committee; and
    - (ii) three members of the board, selected by the board.
  - (e) The board may remove a member appointed under Subsection (2)(m) who does not attend at least 60% of the board's meetings in any calendar year.
- (4) The governor or the governor's designee and a board member selected by majority vote of the board shall serve as cochair of the board.
- (5) The board's executive committee shall consist of four board members, as follows:
- (a) the cochair selected by the board in accordance with Subsection (4);
  - (b) the board members described in Subsections (2)(d) and (e); and
  - (c) a board member selected by majority vote of the board.
- (6)
- (a) The director of the Office of Rural Development shall serve as staff to the board and to the executive committee.
  - (b) In serving as staff to the board and to the executive committee, the director of the Office of Rural Development shall:
    - (i) perform all necessary administrative functions, including scheduling meetings and preparing agendas;
    - (ii) assist the board in the development and implementation of the board's initiatives and programs; and
    - (iii) work with board members to coordinate efforts and focus available resources to perform the board's duties, described in Section 63C-10-103.

- (7) The board shall meet at the call of the cochair, but at least semiannually.
- (8) A majority of the members of the board constitute a quorum.
- (9) The action of a majority of a quorum constitutes the action of the board.
- (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 259, 2014 General Session

**63C-10-103 Duties.**

- (1) The board shall:
  - (a) serve as an advisory board to:
    - (i) the governor on rural economic and planning issues; and
    - (ii) the Governor's Office of Economic Development on rural economic development issues;
  - (b) prepare an annual strategic plan that:
    - (i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and
    - (ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i);
  - (c) identify local, regional, and statewide rural economic development and planning priorities;
  - (d) study and take input on issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration;
  - (e) advocate for rural needs, programs, policies, opportunities, and other issues relating to rural economic development and planning; and
  - (f) no later than October 1 of each year, submit to the governor and to the Legislature an annual report, in accordance with Section 68-3-14, that provides:
    - (i) an overview of the rural economy in the state;
    - (ii) a summary of current issues and policy matters relating to rural economic development; and
    - (iii) a statement of the board's initiatives, programs, and economic development priorities.
- (2) The board may engage in activities necessary to fulfill the board's duties, including:
  - (a) propose or support rural economic development legislation; and
  - (b) create one or more subcommittees.

Amended by Chapter 259, 2014 General Session

## **Chapter 12**

### **Snake Valley Aquifer Advisory Council**

**63C-12-101 Title.**

This chapter is known as the "Snake Valley Aquifer Advisory Council."

Enacted by Chapter 262, 2009 General Session

### **63C-12-102 Definitions.**

As used in this chapter:

- (1) "Council" means the Snake Valley Aquifer Advisory Council created in Section 63C-12-103.
- (2) "Research team" means the Snake Valley Research Team created in Section 63C-12-107.

Enacted by Chapter 262, 2009 General Session

### **63C-12-103 Council creation -- Members -- Terms.**

- (1) There is created a state advisory council known as the "Snake Valley Aquifer Advisory Council."
- (2) The advisory council is composed of the following seven members:
  - (a) the governor or the governor's designee; and
  - (b) six members appointed by the governor as follows:
    - (i) two county commissioners, from individuals recommended by an organization that represents counties in the state, who are residents of:
      - (A) Tooele County;
      - (B) Juab County;
      - (C) Millard County; or
      - (D) Beaver County;
    - (ii) one elected representative of Salt Lake County government, from individuals recommended by an organization that represents counties in the state;
    - (iii) two residents of:
      - (A) Tooele County;
      - (B) Juab County;
      - (C) Millard County; or
      - (D) Beaver County; and
    - (iv) a representative of the Confederate Tribes of Goshute Reservation.
- (3) A member appointed under Subsection (2)(b) is appointed to a two-year term.
- (4) Notwithstanding the requirements of Subsection (3), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members appointed under Subsection (2)(b) are staggered so that approximately half of the council is appointed every two years.
- (5) The governor shall appoint a chairperson.
- (6) If a vacancy occurs in council membership for any reason the replacement shall be appointed for the unexpired term in the same manner as the vacated member was appointed.

Enacted by Chapter 262, 2009 General Session

### **63C-12-104 Advisory council duties -- Meetings.**

- (1) The council shall:
  - (a) meet at least annually but may also meet at the call of:
    - (i) the chair; or
    - (ii) at least two council members;
  - (b) provide advice to the research team, including recommendations concerning the type of data and information gathered by the research team;
  - (c) review the data and information gathered and reported by the research team, including baseline data and changes from baseline data; and
  - (d) act as liaison between the research team and the persons represented by the council.

- (2) A majority of the council members constitute a quorum for the transaction of council business.
- (3) The council may advise the governor and the Legislature on any issue relating to its review under Subsection (1)(c).

Enacted by Chapter 262, 2009 General Session

**63C-12-105 Compensation of members -- Expenses.**

A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

**63C-12-106 Staff.**

The director of the Public Lands Policy Coordinating Office shall provide staff services to the council.

Enacted by Chapter 262, 2009 General Session

**63C-12-107 Research team.**

- (1) There is created a Snake Valley Aquifer Research Team composed of the following four members:
  - (a) a representative of the Division of Air Quality, appointed by the executive director of the Department of Environmental Quality;
  - (b) a representative of the Department of Agriculture and Food, appointed by the commissioner of the Department of Agriculture and Food;
  - (c) the executive director of the Department of Natural Resources or the executive director's designee; and
  - (d) the director of the Public Lands Policy Coordinating Office.
- (2) The director of the Public Lands Policy Coordinating Office shall coordinate and direct the research team's data and information compilation and reporting required by Section 63C-12-108.

Enacted by Chapter 262, 2009 General Session

**63C-12-108 Research team duties.**

The research team shall:

- (1) compile existing scientific research baseline data on the potential impact of the use of water resources in the interstate groundwater flow system specified in the Lincoln County Conservation, Recreation, and Development Act of 2004, Pub. L. No. 108-424, including the impact on:
  - (a) surface water and groundwater;
  - (b) vegetation, including invasive species;
  - (c) agriculture;
  - (d) soils;
  - (e) air quality;

- (f) wildlife;
- (g) the geologic integrity of the aquifer; and
- (h) socioeconomic conditions;
- (2) compile changes to the baseline data compiled under Subsection (1);
- (3) seek to enter into cooperative agreements with governmental entities to share relevant data and information;
- (4) provide an annual data and information report to the council; and
- (5) seek the voluntary participation of experts in academia and the private sector in the activities of the research team.

Enacted by Chapter 262, 2009 General Session

## **Chapter 14**

### **Federal Funds Commission**

#### **Part 1**

#### **General Provisions**

##### **63C-14-101 Title.**

This chapter is known as "Federal Funds Commission."

Enacted by Chapter 62, 2013 General Session

##### **63C-14-102 Definitions.**

As used in this chapter:

- (1) "Commission" means the Federal Funds Commission created in Section 63C-14-201.
- (2) "Federal issue" means a matter relating to the federal government's dealings with the state, including a matter described in Subsection 63C-14-301(1).

Enacted by Chapter 62, 2013 General Session

#### **Part 2**

#### **Commission Creation and Membership**

##### **63C-14-201 Creation of Federal Funds Commission -- Membership -- Chairs.**

- (1) There is created an advisory commission known as the Federal Funds Commission.
- (2) The commission consists of 13 members as follows:
  - (a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;
  - (b) three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;
  - (c) three individuals appointed by the governor, no more than two of whom may be from the same political party; and
  - (d) four individuals appointed by commission members appointed under Subsections (2)(a), (b), and (c).

(3) The commission shall select a chair and a vice chair from among its members.

Enacted by Chapter 62, 2013 General Session

**63C-14-202 Terms of commission members -- Removal -- Vacancies -- Salaries and expenses.**

- (1) Subject to Subsections (3), (4), and (5), the term of commission members is two years.
- (2) A commission member may be reappointed to a successive term.
- (3) Beginning March 2015, the term of commission members shall be staggered so that the term of approximately half of the members expires every year.
- (4) A commission member may be removed from the commission by the person or persons who appointed the member.
- (5) Subject to Subsection (7), a commission member appointed under Subsection 63C-14-201(2) (a) or (b) who leaves office as a legislator may not continue to serve as a commission member.
- (6) A vacancy in the commission shall be filled in the same manner as the appointment of the member whose departure from the commission creates the vacancy.
- (7) A commission member shall serve until a successor is duly appointed and qualified.
- (8)
  - (a) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member as allowed in:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
  - (b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

**Part 3**  
**Commission Powers and Duties**

**63C-14-301 Commission duties.**

- (1) Until November 30, 2019, the commission shall:
  - (a) study and assess:
    - (i) the financial stability of the federal government;
    - (ii) the level of dependency that the state and local governments have on the receipt of federal funds;
    - (iii) the risk that the state and local governments in the state will experience a reduction in the amount or value of federal funds they receive, in both the near and distant future;
    - (iv) the likely and potential impact on the state and its citizens from a reduction in the amount or value of federal funds received by the state and by local governments in the state, in both the near and distant future; and
    - (v) the likely and potential national impact from a reduction in the amount or value of federal funds paid to the states, in both the near and distant future; and
  - (b) make recommendations to the governor and Legislature on methods to:

- (i) avoid or minimize the risk of a reduction in the amount or value of federal funds by the state and by local governments in the state;
  - (ii) reduce the dependency of the state and of local governments in the state on federal funds; and
  - (iii) prepare for and respond to a reduction in the amount or value of federal funds by the state and by local governments in the state.
- (2) After November 30, 2019, the commission shall study, assess, and provide recommendations on any federal issue that the governor, the Legislature through a joint resolution of the Legislature, or the Legislative Management Committee directs the commission to study, assess, and make recommendations on.
- (3) On or before November 30 of each year, the commission shall report to the Government Operations Interim Committee of the Legislature on the commission's findings and recommendations.

Amended by Chapter 409, 2015 General Session

**63C-14-302 Commission meetings -- Quorum -- Bylaws -- Staff support.**

- (1)
- (a) Until November 30, 2019, the commission shall meet at least quarterly but no more frequently than once a month.
  - (b) After November 30, 2019, the commission shall meet as directed by the governor, the Legislature, or the Legislative Management Committee in conjunction with direction given under Subsection 63C-14-301(2).
- (2) A majority of the commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.
- (3) The commission may adopt bylaws to govern its operations and proceedings.
- (4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Amended by Chapter 409, 2015 General Session

## **Chapter 15**

### **Prison Relocation Commission**

#### **Part 1**

#### **General Provisions**

**63C-15-101 Title.**

This chapter is known as "Prison Relocation Commission."

Enacted by Chapter 211, 2014 General Session

**63C-15-102 Definitions.**

As used in this chapter:

- (1) "Commission" means the Prison Relocation Commission, created in Section 63C-15-201.



- (2) "Department" means the Department of Corrections, created in Section 64-13-2.
- (3) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.
- (4) "Justice commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.
- (5) "New prison facilities" means correctional facilities to be constructed to replace the state prison.
- (6) "State prison" means the prison that the state operates in Draper.

Amended by Chapter 182, 2015 General Session

## **Part 2**

### **Commission Provisions**

#### **63C-15-201 Commission created -- Membership -- Cochairs -- Removal -- Vacancy.**

- (1) There is created a commission known as the Prison Relocation Commission, composed of:
  - (a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;
  - (b) four members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;
  - (c) the executive director of the justice commission, appointed under Section 63M-7-203; and
  - (d) the executive director of the department, appointed under Section 64-13-3, or the executive director's designee.
- (2) The commission members from the Senate and House of Representatives are voting members of the commission, and the members appointed under Subsections (1)(c) and (d) are nonvoting members of the commission.
- (3) The president of the Senate shall appoint one of the commission members from the Senate as cochair of the commission, and the speaker of the House of Representatives shall appoint one of the commission members from the House of Representatives as cochair of the commission.
- (4) The president of the Senate may remove a member appointed under Subsection (1)(a), and the speaker of the House of Representatives may remove a member appointed under Subsection (1)(b).
- (5) A vacancy of a member appointed under Subsection (1)(a) or (b) shall be filled in the same manner as an appointment of the member whose departure from the commission creates the vacancy.
- (6) A commission member shall serve until a successor is duly appointed and qualified.

Amended by Chapter 182, 2015 General Session

#### **63C-15-202 Quorum and voting requirements -- Bylaws -- Salaries and expenses -- Staff.**

- (1) A majority of the voting commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.
- (2) The commission may adopt bylaws to govern its operations and proceedings.
- (3)
  - (a) Salaries and expenses of commission members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

- (b) A commission member who is not a legislator may not receive compensation, benefits, per diem, or expense reimbursement for the member's service on the commission.
- (4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Enacted by Chapter 211, 2014 General Session

**63C-15-203 Commission duties and responsibilities.**

- (1) The commission shall:
  - (a) carefully and deliberately consider, study, and evaluate how and where to move the state prison, and in that process:
    - (i) consider whether to locate new prison facilities on land already owned by the state or on land that is currently in other public or private ownership but that the state may acquire or lease, whether to locate new prison facilities at one location or multiple locations, and to what extent future corrections needs may be met by existing state and county facilities; and
    - (ii) take into account relevant objectives, including:
      - (A) coordinating the commission's efforts with the efforts of the justice commission and the department to evaluate criminal justice policies to increase public safety, reduce recidivism, and reduce prison population growth;
      - (B) ensuring that new prison facilities are conducive to future inmate programming that encourages a reduction in recidivism;
      - (C) locating new prison facilities to help facilitate an adequate level of volunteer and staff support that will allow for a correctional program that is commensurate with the high standards that should be maintained in the state;
      - (D) locating new prison facilities within a reasonable distance of comprehensive medical facilities;
      - (E) locating new prison facilities to be compatible with surrounding land uses for the foreseeable future;
      - (F) locating new prison facilities with careful consideration given to the concerns of access to courts, visiting and public access, expansion capabilities, emergency response factors, and the availability of infrastructure;
      - (G) supporting new prison facilities by one or more appropriations from the Legislature;
      - (H) developing performance specifications for new prison facilities that facilitate a high quality correctional program;
      - (I) phasing in construction over a period of time; and
      - (J) making every reasonable effort to maximize efficiencies and cost savings that result from building and operating newer, more efficient prison facilities;
- (b) invite the participation in commission meetings of interested parties, the public, experts in the area of prison facilities, and any others the commission considers to have information or ideas that would be useful to the commission;
- (c) formulate recommendations concerning:
  - (i) the location or locations to which the new prison facilities should be moved;
  - (ii) the type of facilities that should be constructed to accommodate the prison population and to facilitate implementation of any new corrections programs; and
  - (iii) the extent to which future corrections needs can be met by existing state or county facilities; and

- (d) sponsor one or more public information and feedback events in communities within which or adjacent to which a site under final consideration for new prison facilities is located, as the commission or its chairs consider appropriate.
- (2)
  - (a) On or before August 1, 2015, the commission shall:
    - (i) choose the site for the construction of new prison facilities from among the sites that the commission recommended as potential sites in the commission's report to the governor and the Legislature, adopted on and dated February 27, 2015; and
    - (ii) report the commission's choice to the president of the Senate, the speaker of the House of Representatives, and the governor.
  - (b) The site chosen by the commission under Subsection (2)(a) shall be the site for the construction of new prison facilities if the site is approved by the Legislature at:
    - (i) a special session of the Legislature that the governor convenes for that purpose; or
    - (ii) an annual general session of the Legislature.
- (3) The commission may:
  - (a) meet as many times as the commission considers necessary or advisable in order to fulfill its responsibilities under this part;
  - (b) hire or direct the hiring of one or more consultants with experience or expertise in a subject under consideration by the commission, to assist the commission in fulfilling its duties under this part; and
  - (c) extend the deadline under Subsection (2)(a) for a one-month period, as many times as the commission considers appropriate and necessary.
- (4) The commission may not:
  - (a) consider or evaluate future uses of the property on which the state prison is currently located;
  - (b) make recommendations concerning the future use or development of the land on which the state prison is currently located;
  - (c) make any commitments or enter into any contracts for the acquisition of land for new state prison facilities or regarding the construction of new state prison facilities; or
  - (d) initiate or pursue the procurement of a person to design or construct new prison facilities.

Amended by Chapter 182, 2015 General Session

**63C-15-204 Other agencies' cooperation and actions.**

- (1) The department and the justice commission shall work cooperatively with the commission to help ensure that the location and nature of new prison facilities that the commission recommends are conducive to and consistent with any anticipated reforms of or changes to the state's corrections system and correction programs.
- (2) As the commission works to formulate recommendations on how and where to relocate the state prison, the division may, in consultation with the commission, undertake efforts, consistent with the recommendations being formulated by the commission:
  - (a) to develop performance specifications for future prison facilities; and
  - (b) to identify and secure the rights to land that appears to be suitable for future prison facilities.
- (3) All state agencies and political subdivisions of the state shall, upon the commission's request:
  - (a) reasonably cooperate with the commission to facilitate the fulfillment of its responsibilities; and
  - (b) provide information or assistance that the commission reasonably needs in order to fulfill its responsibilities.

Enacted by Chapter 211, 2014 General Session

## **Chapter 16 Prison Development Commission Act**

### **Part 1 General Provisions**

#### **63C-16-101 Title.**

This chapter is known as the "Prison Development Commission Act."

Enacted by Chapter 182, 2015 General Session

#### **63C-16-102 Definitions.**

As used in this chapter:

- (1) "Commission" means the Prison Development Commission, created in Section 63C-16-201.
- (2) "Department" means the Department of Corrections, created in Section 64-13-2.
- (3) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.
- (4) "Justice commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.
- (5) "New correctional facilities" means a new prison and related facilities to be constructed to replace the state prison located in Draper.
- (6) "Prison project" means the same as that term is defined in Section 63A-5-225.
- (7) "Selected site" means the site selected under Subsection 63C-15-203(2) as the site for new correctional facilities.

Enacted by Chapter 182, 2015 General Session

### **Part 2 Prison Development Commission**

#### **63C-16-201 Commission created -- Membership -- Cochairs -- Removal -- Vacancy.**

- (1) There is created a commission known as the Prison Development Commission, composed of:
  - (a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;
  - (b) four members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;
  - (c) the executive director of the justice commission, appointed under Section 63M-7-203;
  - (d) the executive director of the department, appointed under Section 64-13-3, or the executive director's designee; and
  - (e) a citizen member who is a resident of the community in or near which the selected site is located, appointed by the governor.

- (2) The president of the Senate shall appoint one of the commission members from the Senate as cochair of the commission, and the speaker of the House of Representatives shall appoint one of the commission members from the House of Representatives as cochair of the commission.
- (3) The president of the Senate may remove a member appointed under Subsection (1)(a), the speaker of the House of Representatives may remove a member appointed under Subsection (1)(b), and the governor may remove a member appointed under Subsection (1)(e).
- (4) A vacancy of a member appointed under Subsection (1)(a), (b), or (e) shall be filled in the same manner as an appointment of the member whose departure from the commission creates the vacancy.
- (5) A commission member shall serve until a successor is duly appointed and qualified.

Enacted by Chapter 182, 2015 General Session

**63C-16-202 Quorum and voting requirements -- Bylaws -- Per diem and expenses -- Staff.**

- (1) A majority of the commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.
- (2) The commission may adopt bylaws to govern its operations and proceedings.
- (3)
  - (a) Per diem and expenses of commission members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislative Compensation.
  - (b) A commission member who is not a legislator may not receive compensation, benefits, per diem, or expense reimbursement for the member's service on the commission.
- (4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Enacted by Chapter 182, 2015 General Session

**63C-16-203 Commission duties and responsibilities.**

- (1) The commission shall:
  - (a) advise and consult with the division as the division oversees the prison project as provided in Section 63A-5-225;
  - (b) consult with, make recommendations to, and receive reports from the division regarding the prison project, consistent with Section 63A-5-225;
  - (c) fulfill other responsibilities specified in Section 63A-5-225; and
  - (d) undertake any other action the commission considers appropriate to support or help facilitate the successful completion of the prison project, consistent with Section 63A-5-225.
- (2) The commission may:
  - (a) meet as many times as the commission or its chairs consider necessary or advisable in order to fulfill the commission's responsibilities under this part; and
  - (b) hire or direct the hiring of one or more consultants or experts to assist the commission in fulfilling the commission's responsibilities under this part.
- (3) The commission may not consider or evaluate future uses or development of the property in Draper on which a state prison is located.

Enacted by Chapter 182, 2015 General Session

**63C-16-204 Other agencies' cooperation and actions.**

- All state agencies and political subdivisions of the state shall, upon the commission's request:
- (1) reasonably cooperate with the commission to facilitate the fulfillment of the commission's responsibilities; and
  - (2) provide information or assistance to the commission that the commission reasonably needs to fulfill its responsibilities.

Enacted by Chapter 182, 2015 General Session